REMARKS

The specification has been amended to include a title reflective of the claimed subject matter and to recite the current history of this divisional application. Additionally, the updated and corrected Sequence Listing comprising four sequences is requested to be entered into the Specification, replacing the previous Sequence Listing in Patent-In Version 2. A paper copy of the updated Sequence Listing, as well as a computer diskette, and statements as required under 37 C.F.R. §§1.821(f) and (g) are provided herewith.

With this amendment, there are now 5 claims pending, namely claims 57, and 59-62. All of the present claims are drawn to plants and were deemed to be within Group IV as part of a four-way restriction requirement in grandparent U.S. Application Serial No. 08/721,259. Pursuant to 37 C.F.R. § 1.118(a), Applicants respectfully submit that the foregoing amendments do not introduce any new material into the application.

Corrections to the Sequence listing

Applicants have recently re-sequenced the CryET29 gene and found it to contain two differences from the nucleotide sequence listing shown in SEQ ID NO:1 and in Figure 1B of the present application. These changes are a guanine or "G" at position 385, and a cytosine or "C" at position 386. These nucleotides were reported in the original sequence listing to be a cytosine or "C" at position 385 and a guanine or "G" at position 386. These nucleotide changes from "CG" to "GC" at positions 385-386, result in a corresponding amino acid change at position 129 from an Arginine (Arg) to an Alanine (Ala).

Applicants submit the attached declaration of inventor Donovan along with the deposit receipt for strain NRRL B-21624 (EG11513) in support of the described sequence corrections. Specifically, Applicants assert that this sequencing error was inadvertent and that the correction does not constitute new matter since an original deposit was made relating to the present case on May 30, 1996. The deposit consisted of two different strains, a *Bacillus thuringiensis* strain EG 4096, which was the strain from which CryET29 was originally isolated, and also an *Escherichia coli* strain, EG11494, which contains a plasmid on which the gene encoding CryET29 was cloned. Since the gene encoding CryET29 was present in these deposited samples, anyone of skill in the art could have sequenced this gene and identified the correct sequence containing the "GC" nucleotides at positions 385 and 386.

Applicants respectfully submit that the sequence corrections do not introduce new matter into the present case. Furthermore, Examiner Prouty approved these corrections in the co-pending application 10/386,972.

Corresponding Corrections to the Drawings

Applicants respectfully request that the corrected Figure 1B be entered into the present application. This correction is necessitated by the same sequence correction described above. Specifically, in Fig. 1B, nucleotides at positions corresponding to 385 and 386 have been corrected to read "G" and "C", respectively. Additionally, amino acid residue 129 has also been corrected to read "Ala" instead of "Arg". A copy of these changes (marked in red) is attached hereto. Applicants are submitting herewith clean copies of both Figure 1A and Figure 1B for the convenience of the Examiner and Draftsperson, even though there are no changes to Figure 1A.

The Commissioner is authorized to charge the filing fee to Deposit Account No. 01-2508/11792.0017.DVUS03.

Should any additional fees be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from Deposit Account No. 01-2508/11792.0017.DVUS03.

Respectfully submitted,

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